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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
1998 Biennial Regulatory Review)
Part 61 of the Commission's Rules) CC Docket No. 98-131
and Related Tariffing Requirements)

COMMENTS OF AT&T CORP.

Pursuant to the Notice of Proposed Rulemaking ("NPRM") released on July 24, 1998, AT&T Corp. ("AT&T") hereby comments on the Commission's proposals for revising Part 61 of its Rules regarding the filing of tariffs by dominant and nondominant carriers.¹ The Commission proposes to streamline and simplify several of its Part 61 Rules in response to the direction of Section 11 of the Communications Act ("the Act") that it review its regulations biennially and "determine whether any such regulation is no longer necessary in the public interest as a result of meaningful competition between providers of such service." 47 U.S.C. § 161(a)(2). AT&T supports many of the rule revisions set forth in the NPRM, but suggests certain refinements in order to better fulfill the goals of Section 11 of the Act.

COMMENTS ON PROPOSED RULE CHANGES

Section 61.19 -- Detariffing of domestic, interstate interexchange services

In this provision, the Commission proposes to reflect its current mandatory detariffing policy relating to nondominant carriers, which the U.S. Court of Appeals for

¹ Notice of Proposed Rulemaking, 1998 Biennial Review -- Part 61 of the Commission's Rules and Related Tariffing Requirements, CC Docket No. 98-131, FCC 98-164 ("NPRM"), 63 Fed. Reg. 49521 (September 16, 1998).

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the D.C. Circuit has stayed pending appeal.² AT&T has shown that the Commission lacks authority under the Act to promulgate that policy, and adheres to that position in this proceeding. Nonetheless, AT&T offers the following comments on other aspects of proposed Section 61.19.

In Section 61.19(c), the Commission proposes to allow nondominant interexchange carriers (“IXCs”) to provide service pursuant to tariff for a limited period to customers that designate or change their primary interexchange carrier (“PIC”), in order to allow time for the IXC to enter into a written agreement with the customer. The Commission proposes that such tariffs can no longer govern the customer’s service after an initial 45 day period. AT&T supports in principle the Commission’s proposal but suggests that it be refined in two respects. First, the permissible tariff period should be 90 days, rather than 45 days, in order to allow IXCs and their customers sufficient time to consummate agreements. Second, the tariff period should be measured from the date the local exchange carrier gives the IXC a PIC notification. Some local exchange carriers, and in particular smaller carriers, are sometimes slow in providing that notification or there can be mistakes or unintended delays in the notification reaching the IXC. Accordingly, in the interest of affording IXCs the full period contemplated by the Commission to enter into an agreement with customers, the tariffing period should run from the date that the IXC actually receives the PIC notification from the local exchange carrier.

² Mandatory Detariffing Second Report and Order, 11 FCC Rcd 20730 (1996), recon. 12 FCC Rcd 15014 (1997), stay pending appeal, MCI Telecommunications Corp. v. F.C.C., No. 96-1459 (D.C. Cir. 1997).

Section 61.20 -- Method of Filing Publications

Proposed Section 61.20(c) contemplates that carriers will submit filing fees electronically and will submit a CD ROM, or a diskette, containing the tariff and any attachments. AT&T does not object to this proposal, but recommends that the Commission afford carriers the option of filing tariffs by means of paper in an emergency, in cases of equipment or similar failure when it is not possible to file tariffs electronically. In such a case, AT&T proposes that the carrier be required to file the tariff in question electronically within 5 business days from the date it files a tariff using paper, accompanied by a certification by an authorized company official certifying that it was not possible to file a tariff electronically at the time the paper tariff was submitted.

Section 61.22 -- Composition of Tariffs.

The proposed Section 61.22(a) would require carriers to file tariffs on a diskette or CD-ROM formatted for WordPerfect 5.1 or Microsoft Word 6 software and would provide that “[n]either diskettes nor CD-ROMs shall contain more than one tariff.” Since March 1997, under the terms of a waiver, AT&T has been filing , virtually on a daily basis, multiple tariffs -- both general and contract -- under one or two transmittal letters on a single CD-ROM. The proposal to prohibit the filing of multiple tariffs on a single diskette or CD-ROM would be inconsistent with the thrust of Congress’ instruction in Section 11 of the Act,³ and would unjustifiably reverse the practice under which AT&T has been filing tariffs for over the past eighteen months. Compelling carriers to file tariffs

³ Additionally, there would appear to be an inconsistency between proposed Section 61.33(h)(2), which appears to permit the filing of multiple contract tariffs under a single transmittal, and Section 61.22(e), which does not.

on separate CD-ROMs and subject to separate filing fees for each such filing, in lieu of the use of a single CD-ROM and a single filing fee covering multiple tariffs, would cost the industry millions of dollars in additional expenses each year, both for the added fees and the additional expense of producing the additional CD-ROMs. For example, AT&T estimates that it would face additional expenses of over \$2.5 million per year if the Commission's proposal were implemented, based on AT&T's estimate of the number of tariff filings it will make this year. Carriers cannot be expected to absorb these increased costs, and would have to pass these costs on to their customers. In addition, the need to prepare separate CD-ROMs for each tariff filing inevitably would result in delays in the filing of tariffs and consequent delays in responding to the service needs of customers.

This proposal would also produce a near-blizzard of additional CD-ROMs and diskettes being filed at the Commission, increasing by several orders of magnitude the number of such files sent to the Commission, thus substantially increasing the workload of the FCC staff who must download these materials. In short, this proposal would substantially increase the burden of regulation on carriers while providing no corresponding public benefit. In light of these facts, it is clear that the public interest would not be served by the elimination of the Commission's current practice under which AT&T has been able to file multiple tariffs on a single CD-ROM.

AT&T also requests that the Commission allow carriers to issue their tariffs using more recent versions of WordPerfect and Microsoft Word software, provided that the diskette or CD-ROM that is filed provides the ability to convert the file to the particular releases (Wordperfect 5.1 and Word 6) specified by the Commission. The

Commission should not specify particular “generations” of software, since technical advances make those arrangements obsolete and carriers cease to use them. So long as the tariffs are filed in such a way that they can be read by customers using the Commission’s specified release numbers, universal readability of the tariffs is assured.

The proposed Section 61.22(e) states that numbers in contract-based tariffs “must be in the form of ‘CT No. ____,’ using CT as an abbreviation for contract-based tariffs.” At the present time, AT&T’s tariffs spell out the term “Contract Tariff,” rather than the abbreviation “CT”. AT&T’s tariff software in fact has various “macros” that handle these tasks automatically. Changing the tariff nomenclature as proposed by the Commission would involve changing standard processes and thus impose additional costs on carriers, with no corresponding public interest benefit. Since AT&T assumes that the Commission does not intend this result, it would be desirable if the Commission clarified its proposal to the effect that a carrier can use either the abbreviation “CT” or the full term “Contract Tariff.”

Section 61.23 -- Notice Requirements

AT&T supports the Commission’s proposal to establish a one day notice period for the filing of domestic and international tariffs by nondominant carriers such as AT&T. Consistent with the intent of this proposal, the Commission should clarify that typos and reinstatement tariff changes similarly can be made on one day’s notice.

Section 61.24 -- Effective Period Required Before Changes

AT&T objects to the Commission’s proposal that a nondominant carrier’s new rates or regulations must remain in effect for at least 15 days before they can be changed. This rule is inconsistent with the Commission’s proposal that a nondominant

carrier can file tariffs on one day's notice and is inconsistent with the basic policy the Commission is seeking to promote in this proceeding -- facilitating the efforts of carriers to respond swiftly to the changing needs of their customers. There is no justification for the Commission to interfere with the normal operation of the competitive marketplace by artificially constraining the ability of nondominant carriers to change their prices as necessary. If a nondominant carrier changes its rates and regulations too frequently from the perspective of customers, they have a remedy: they can simply subscribe to another carrier that does not engage in that practice. The Commission, however, should not be the arbiter. Accordingly, Section 61.24 should provide that nondominant carriers can change any new rate or regulation on one day's notice.

Section 61.25 -- References to Other Instruments

This provision states that nondominant carriers are only allowed to cross reference rates from another FCC tariff. The parallel Section 61.74, however, allows all carriers broader rights to cross-reference. The Commission should ensure that its rules make clear that nondominant carriers have at least the same rights to cross reference as dominant carriers. Indeed, it would be appropriate to allow nondominant carriers the ability to cross reference other publicly available documents, such as a Request for Proposal, that might be relevant to the service being tarified.

Section 61.47 -- Adjustments to the SBI; Pricing Bands

In the NPRM, the Commission requests comments on whether it should revise Section 61.47, as proposed, to reflect the terms of the waiver of the Part 61 rules issued in response to the petition filed by the United States Telephone Association

(“USTA”) regarding the targeting of exogenous costs.⁴ The targeting and non-targeting of exogenous costs was an important issue at one time that required modifying the SBI and SBI upper limit formulas with the ILECs’ 1997 Annual Access filings and their January 1, 1998 Access Reform tariff filings. However, at the present time, the only targeting of exogenous costs that remains involves the targeting of GDPPI-X to the Interconnection Charge and the shifting of one-third of tandem costs from the Interconnection Charge to the Tandem rate elements each year over the next two years. These remaining adjustments can be addressed in the Commission’s TRP Orders relating to the Annual Access filings and the Access Reform filings. In this light, it is not necessary for the Commission to revise its Part 61 rules to address issues that will no longer be relevant to price cap LEC tariff filings. Thus, AT&T requests that the Commission not revise Section 61.47 to include changes to specific formulas for calculating SBI upper limits resulting from targeting and nontargeting exogenous costs.

Section 61.58 -- Notice Requirements

The proposed Section 61.58(e)(3) would maintain the status quo by requiring that Alascom, Inc. file tariffs on 90 days’ notice. NPRM, ¶ 13. AT&T does not believe that continuation of this policy is in the public interest. As the Commission notes, under § 204(a)(3) of the Act, even large incumbent local exchange carriers are permitted to file rate decreases on seven days’ notice and increases on only fifteen days’ notice, notwithstanding their significant market power. AT&T believes that Alascom should be

⁴ United States Telephone Association, Petition for Waiver of Sections 61.47, 69.153(c)(1), 69.153(d)(1)(I), and 69.153(d)(2)(I) of the Commission’s Rules, 12 FCC Rcd 18133 (Com. Car. Bur. 1997).

subject to notice periods that are certainly no longer than those prescribed in § 204(a)(3), rather than a ninety day period.

The Commission clearly has authority to codify its policy regarding the notice period governing Alascom, Inc.'s tariffs and it is appropriate that the Commission modify these policies. Nothing in § 410 of the Act compels the FCC to refer this matter to a Joint Board, and so the decision to refer in this instance would be left to the Commission's discretion. Moreover, the establishment of a tariff notice period for an interstate tariff is best viewed simply as an administrative matter for the FCC to decide. It does not involve any jurisdictional separations issues, or have any particular intrastate implications requiring the special consultation contemplated in § 410. Thus, the Commission may adopt a shortened notice period without referring the issue to a Joint Board pursuant to § 410 of the Act.

Section 61.77 -- Combined Domestic and International Tariffs Prohibited

AT&T objects in the strongest terms to the Commission's proposal to prohibit the filing of tariffs combining domestic and international service offerings. The Commission reasons that "requiring separate domestic and international tariffs would facilitate review of those tariffs," but acknowledges that it may be administratively burdensome for carriers to separate their domestic and international services by means of separate tariffs. NPRM at ¶ 15.

In fact, the burden and expense of the Commission's proposal far outweighs the modest benefits the Commission perceives. In the case of AT&T, and presumably many other carriers, its Contract Tariffs, virtual private network and even term

plan tariffs integrate domestic and international service offerings. AT&T has at present approximately 100,000 pages of tariffs on file with the Commission. Implementation of this tariff "separation" proposal would require changes in a vast number of those pages. AT&T estimates that it would take approximately 18 person-years of labor by experienced tariff specialists in order to review the existing tariffs and split them into separate domestic and international components, at a cost of several millions of dollars.

The proposal would also result in customer confusion. Customers, particularly residential and small business customers, do not typically purchase separate domestic and international long distance services, but sign up for a plan that gives them both. Artificially separating those services would certainly adversely impact the convenience and simplicity of ordering long distance services. In fact, when the Commission proposed mandatory detariffing of domestic long distance services, AT&T began preparations to implement the detariffing of domestic services, which of course was halted by the Court's stay. AT&T received many strong adverse reactions from its customers about the separation of international and domestic services in particular, with customers complaining that the use of two separate sources was inconvenient and complicated.

Moreover, the task of decoupling these integrated domestic and international offerings and constructing and maintaining separate tariffs would be immensely expensive for carriers and would take many months, and this added expense inevitably would be borne by customers. In sum, these significant customer detriments clearly outweigh the very slight convenience the Commission believes would result from

10

being able to review separate domestic and international tariffs rather than combined tariffs. In short, this "tariff separation" proposal would cause considerable burden, expense and confusion, a result that is certainly not in keeping with the intent of Section 11 – which is to reduce and simplify regulation consistent with market developments. Accordingly, the Commission should not adopt the proposed Section 61.77.

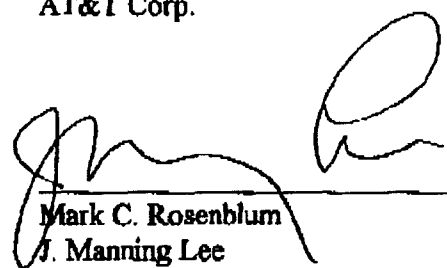
CONCLUSION

For the reasons discussed above, the Commission should amend its Part 61 Rules as described herein.

Respectfully submitted,

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By


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